

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                                )  
v.                           ) Criminal Action No.  
                                ) 05-00265-02-CR-W-FJG  
                                )  
SULPISO LOPEZ-HERNANDEZ, )  
                                )  
Defendants.                )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on February 3, 2006. Defendant Hernandez appeared in person and with his appointed counsel John Lozano. The United States of America appeared by Assistant United States Attorney Kate Mahoney.

***I. BACKGROUND***

On December 7, 2005, a superseding indictment was returned charging Defendant Hernandez with: (1) one count of conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A), 846; (2) one count of possession with the intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B), and 18 U.S.C. § 2; and (3) one count of unlawful reentry in to the United States after having been deported, in violation of 8 U.S.C. § 1326(a) and (b)(2).

The following matters were discussed and action taken during the pretrial conference:

***II. TRIAL COUNSEL***

Ms. Mahoney announced that she will be the trial counsel for the government. The case agent to be seated at counsel table is Detective John Howe, Independence Police Department .

Mr. Lozano announced that he will be the trial counsel for Defendant Hernandez.

***III. OUTSTANDING MOTIONS***

There are no pending motions in this case.

***IV. TRIAL WITNESSES***

Ms. Mahoney announced that the government intends to call ten to twelve witnesses without stipulations or nine to ten witnesses with stipulations during the trial.

Mr. Lozano announced that Defendant Hernandez does not intend to call any witnesses during the trial. Defendant Hernandez will testify.

***V. TRIAL EXHIBITS***

Ms. Mahoney announced that the government will offer approximately thirty exhibits in evidence during the trial.

Mr. Lozano announced that Defendant Hernandez will offer no exhibits in evidence during the trial.

***VI. DEFENSES***

Mr. Lozano announced that Defendant Hernandez will rely on the defense of general denial.

**VII. POSSIBLE DISPOSITION**

Mr. Lozano stated this case is definitely for trial.

**VIII. STIPULATIONS**

Stipulations are not likely.

**IX. TRIAL TIME**

Counsel were in agreement that this case will take two days to try.

**X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed September 13, 2005, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before February 3, 2006;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, February 8, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, February 8, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

**XI. UNUSUAL QUESTIONS OF LAW**

No motions in limine are anticipated. There are no unusual questions of law.

## **XII. TRIAL SETTING**

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on February 13, 2006. The parties request the first week of the trial docket because the case agent (Detective Howe) will be in New Mexico for training during the second week.

A Spanish-speaking interpreter is required.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
February 3, 2006

cc: The Honorable Fernando Gaitan, Jr.  
Ms. Kate Mahoney  
Mr. John Lozano  
Mr. Jeff Burkholder